

**REAL ESTATE BOARD
MINUTES
MADISON, WISCONSIN
MAY 27, 1999**

PRESENT: Nancy Gerrard, Richard Hinsman, Richard Kollmansberger, Bettye Lawrence, Harold Lee, Jerome Nelson

EXCUSED: James R. Imhoff

STAFF PRESENT: Cletus Hansen, Donald Rittel, Jan Neitzel, and Division of Enforcement staff were present for portions of the meeting.

GUESTS: Rick Staff, WRA

CALL TO ORDER

The meeting was called to order at 10:00 a.m. by Richard Hinsman, Vice Chair, upon confirmation that the public notice was timely given. A quorum of 6 members was present.

AGENDA

MOTION: Nancy Gerrard moved, seconded by Harold Lee, to adopt the agenda as published. Motion carried unanimously.

MINUTES (4/22/99)

MOTION: Nancy Gerrard moved, seconded by Harold Lee, to approve the minutes as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Cummings' Report

Secretary Cummings was not available.

Division Administrator's Report

- Board Roster

The Board received a copy of the April 1999, Real Estate Board roster.

- Per Diems

The Board received a copy of a memo from Clete Hansen, dated March 29, 1999, and entitled "Per Diems."

Clete Hansen explained one per diem can be declared for an accumulation of 5 hours of screening and reviewing cases and one per diem for each scheduled board meeting.

LEGISLATIVE UPDATE

Bills relating to Real Estate Regulation, If Any Are Available

Nothing to report.

ADMINISTRATIVE RULES

Update on RL 12 and RL 25 re: Education Requirements

The Board received a copy of the Report to the Legislature on Clearinghouse Rule 99-036.

Clete Hansen informed the Board that Clearinghouse Rule 99-036 has been submitted to the Legislative Committees. They have until June 11, 1999 to take action. Clete Hansen will revise some of the application forms to reflect the changes and will send them to the schools before the changes become effective. The expected effective date is either August 1 or September 1, 1999.

Issues for Future Rulemaking

The Board received a copy of the May 3, 1999, memo from Pamela Haack to Gary Poulson, Assistant Revisor of Statutes, Relating to a Scope Statement of Proposed Rules.

- Full Time Branch Office Manager-Sec. 452.12.(3), Stats., and Ch. RL 17

The Board received a copy of the May 10, 1999 letter from Dick Hinsman concerning branch office managers and supervision of employees.

Don Rittel reported that he, Jim Imhoff and Rick Staff met May 5, 1999, to discuss full-time branch office supervision. Rick Staff contacted other state associations regarding their interpretation and implementation of supervision requirements and how the duties are exercised.

Rick Staff reported that the Wisconsin Realtors Association (WRA) Board of Directors identified 4 areas they feel need direct supervision. They are mentoring, contracts, advertising, and trust accounts.

Jim Imhoff, Rick Staff and Don Rittel are planning to discuss this issue further at another meeting.

The Board discussed whether brokers who sell cannot supervise full-time, whether supervision may not always have to be hands-on by the broker, and how supervisory duties will be exercised if the broker is not in the office.

Don Rittel suggested to the Board that it define branch office, direct supervision, and full-time in the context of the needs of the profession.

Rick Staff stated that the Wisconsin Realtors Association might be interested in obtaining an amendment to the Biennial Budget Bill to remove “direct full-time” from the supervision language in s. 452.12(3), Stats., and to give the department authority to promulgate rules relating to supervision.

MOTION: Harold Lee moved, seconded by Jerry Nelson, to encourage the Wisconsin Realtors Association to obtain an amendment to the Biennial Budget Bill to remove “direct full-time” from the supervision language in s. 452.12(3), Stats., and to give the department authority to promulgate rules relating to supervision.

- Disclosure of Licensed Status-RL 25.05(5) and RL 25.07(8)(a)2

The Board received a copy of the May 13, 1999, memo from Rick Staff regarding Proposed Rule Changes.

Don Rittel stated that at first contact a licensed real estate agent that is a “principal purchaser” needs to disclose that they are licensed and that they intend to act as a principal purchaser of the property.

Don Rittel also stated that a licensee, acting as a buyers agent, needs to disclose to the listing agent or independent seller that they are acting as a licensee.

- Submittal of Offer by Licensee-RL 24.13(3)(b)

The Board discussed the May 18, 1999, letter from Jeffrey P. Patterson that encourages the Board to eliminate the prohibition against employees of the listing broker submitting their own offers to purchase a listed property if such employee has knowledge of any pending offer.

Don Rittel explained the current law and the conclusions reached at the meeting of May 5, 1999.

Rick Staff explained the “bump clause” and its affect on the first and second buyer.

The Board discussed the fact that waiving the commission of the broker acting on his own behalf can create an unfair advantage for the first buyer.

- Disclosure of Licensed Status in Ads for Rental Properties-RL 24.04(2)

Don Rittel informed the Board that when a licensed real estate agent is selling their own property they must disclose they are a licensed agent. When renting their property it is not necessary to disclose that they are a licensed real estate agent.

- All Negotiations With the Buyer Must Be With Buyer's Buyer-Agent –RL 24.13(5)

The Board referred to the current requirements that all offers be submitted through the listing broker and agreed that a parallel requirement should pertain to submitting proposals to a buyer through a buyer-broker.

The Board discussed the pros and cons of the “code of ethics” regarding pending offers.

REFERRAL FEES

The Board received a copy of the May 1, 1999, Relocation Report.

The Board agreed that public hearing on this issue is not necessary.

REPORT OF THE CONTRACTUAL FORMS ADVISORY COMMITTEE

The Board received a copy of the April 22, 1999, draft of the Buyer Agency/Tenant Representation agreement and the Vacant Land Listing and Offer.

The Board discussed line 31 in form WB-3 Vacant Land Listing Contract-Exclusive Right To Sell. Richard Kollmansberger suggested that the “Seller represents that the Property is zoned” be changed to “Broker has verified with the municipalities that the property is zoned.” No changes will be made at this time.

MOTION: Nancy Gerrard moved, seconded by Richard Kollmansberger, to approve the forms, providing no substantive changes are made by the Forms Committee. Motion carried unanimously.

Nancy Gerrard commended the Forms Committee and Rick Staff on the work done with the revisions of the forms.

INTERNET ADVERTISING

The Board received a copy of correspondence between representatives of the National Association of Realtors and the Association of Real Estate License Law Officials.

The Board received a copy of the February 3, 1999, Iowa Internet Advertising Rules.

The Board received a copy of the April 9, 1999, National Association of Realtors Proposed Model Rule on Internet Advertising Regulation.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

The Board received a copy of the May 13, 1999, Capital Times article “Realtor must adapt, react to changing times”.

The Board received a copy of Capital Times article “Couple sue, state examines Peppertree sales, marketing”.

Exam Changes

The Board received a copy of memos from Barbara Showers, relating to a new broker’s reciprocal exam and the revised content outline for the salesperson’s exam.

Clete Hansen informed the Board that PSI recommended that the new salesperson’s exam decrease the number of questions on the real estate exam to 80. Barbara Showers and Clete Hansen recommended keeping the number at 100 questions.

Case Screening

The Board received a copy of the April 29, 1999, memo from Marlene Meyer relating to the number of cases screened and subsequently opened or not opened for investigation.

North Carolina’s Square Footage Guidelines

The Board received a copy of the Residential Square Footage Guidelines of North Carolina’s Real Estate commission. Noted

Case Status Reports

Clete Hansen advised the Board that the Department of Enforcement continues to supply 2 copies of the Case Status Report for each board meeting.

Senator Moore

Clete Hansen informed the Board that there was no new information regarding Senator Gwendolynn Moore’s proposal relating to the creation of the certification of home ownership counseling.

NEW BUSINESS

Richard Hinsman inquired about the penalties for unlicensed people working and receiving commissions. Clete Hansen stated he will supply the Board with a copy of the Barber/Cosmetology forfeiture grid at the next meeting.

PUBLIC COMMENT

Sexual Predator Registry

Rick Staff is working with the Department of Corrections to open the Sexual Predator Registry to the public.

RECESS TO CLOSED SESSION

MOTION: Bettye Lawrence moved, seconded by Nancy Gerrard, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of persons licensed by the Department or the investigation of charges against such persons. Specifically, to discuss the issue of case status reports, case closings, monitoring reports, deliberations on stipulations that may be signed after printing of the agenda, and disciplinary proceedings. Motion carried unanimously by a roll call vote:

Open Session recessed at 11:25 a.m.

The Board received a copy of the Division of Enforcement Case Status Report. Noted.

The Board deliberated on case closings, stipulations and monitoring issues.

Final voting on these issues was conducted in Open Session.

RECONVENE IN OPEN SESSION

MOTION: Harold Lee moved, seconded by Jerry Nelson, to adjourn the Closed Session and to reconvene in Open Session at 11:37 a.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

CASE CLOSINGS

MOTION: Nancy Gerrard moved, seconded by Betty Lawrence, to close the following 5 cases presented by the Division of Enforcement for closing. Motion carried unanimously.

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| 99 REB 064 | Daniel Olson, (Milwaukee, WI) |
| 98 REB 067 | Rodney Overson and Jeffrey Braun, (Union Grove, WI) |
| 98 REB 086 | Prey, Jensen, LMJ Associates, Inc, (Wausau, WI) |
| 98 REB 148 | Meilahn, Main Street Realty, Joanne A. Roegrborn, (Plymouth WI) |
| 98 REB 266 | Richard D. Stern, (Madison, WI) |

STIPULATIONS

Kevin S. Bahe (Monroe WI)

MOTION: Bettye Lawrence moved, seconded by Nancy Gerrard, to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the disciplinary matters involving **Kevin S. Bahe**. Motion carried unanimously.

William C. Thomas (Milwaukee WI)

MOTION: Harold Lee moved, seconded by Jerry Nelson, to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the disciplinary matters involving **William C. Thomas**. Motion carried unanimously.

Caston Love (Milwaukee, WI)

MOTION: Bettye Lawrence moved, seconded by Richard Kollmansberger, to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the disciplinary matters involving **Caston Love**. Motion carried unanimously.

Maria E. Ordonez-Hinz (Milwaukee, WI)

MOTION: Bettye Lawrence moved, seconded by Nancy Gerrard, to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the disciplinary matters involving **Maria E. Ordonez-Hinz**. Motion carried unanimously.

MONITORING

George Nelson (Wisconsin Dells, WI)

MOTION: Jerry Nelson moved, seconded by Nancy Gerrard, to permit an extension of time for 5 hours of retraining to **George Nelson**.

ADJOURNMENT

MOTION: The Board adjourned by consensus.

Meeting adjourned at 11:41 a.m.